

AN ACT

1 relating to grant programs for certain natural gas motor vehicles
2 and alternative fuel facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Subsection (a), Section 386.252, Health and
5 Safety Code, as amended by Chapters 1125 (H.B. 1796) and 1232 (S.B.
6 1759), Acts of the 81st Legislature, Regular Session, 2009, is
7 reenacted and amended to read as follows:
8

9 (a) Money in the fund may be used only to implement and
10 administer programs established under the plan and shall be
11 allocated as follows:

12 (1) for the diesel emissions reduction incentive
13 program, 87.5 percent of the money in the fund, of which:

14 (A) not more than four percent may be used for the
15 clean school bus program;

16 (B) not more than 10 percent may be used for
17 on-road diesel purchase or lease incentives; ~~and~~

18 (C) a specified amount may be used for the new
19 technology implementation grant program, from which a defined
20 amount may be set aside for electricity storage projects related to
21 renewable energy;

22 (D) five percent shall be used for the clean
23 fleet program;

24 (E) not less than 16 percent shall be used for the

1 natural gas vehicle rebate program;

2 (F) not more than four percent may be used to
3 provide grants for natural gas fueling stations under Section
4 393.010; and

5 (G) two percent may be used for the Texas
6 alternative fueling facilities program;

7 (2) for the new technology research and development
8 program, nine percent of the money in the fund, of which:

9 (A) up to \$200,000 is allocated for a health
10 effects study;

11 (B) \$500,000 is to be deposited in the state
12 treasury to the credit of the clean air account created under
13 Section 382.0622 to supplement funding for air quality planning
14 activities in affected counties;

15 (C) not less than 20 percent is to be allocated
16 each year to support research related to air quality as provided by
17 Section 387.010; and

18 (D) the balance is allocated each year to the
19 commission to be used to:

20 (i) implement and administer the new
21 technology research and development program for the purpose of
22 identifying, testing, and evaluating new emissions-reducing
23 technologies with potential for commercialization in this state and
24 to facilitate their certification or verification; and

25 (ii) contract with the Energy Systems
26 Laboratory at the Texas Engineering Experiment Station for \$216,000
27 annually for the development and annual computation of creditable

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1 statewide emissions reductions obtained through wind and other
2 renewable energy resources for the state implementation plan; and

3 (3) two percent is allocated to the commission and 1.5
4 percent is allocated to the laboratory for administrative costs
5 incurred by the commission and the laboratory.

6 SECTION 2. Section 386.252, Health and Safety Code, is
7 amended by adding Subsections (e), (f), and (g) to read as follows:

8 (e) The commission may allocate unexpended money designated
9 for the Texas alternative fueling facilities program to other
10 programs described under Subsection (a) after the commission
11 allocates money to recipients under the alternative fueling
12 facilities program.

13 (f) Notwithstanding Subsection (a), the commission may
14 reallocate money in the fund if:

15 (1) the commission, in consultation with the governor
16 and the advisory board, determines that the use of the money in the
17 fund for the program established under Chapter 393 will cause the
18 state to be in noncompliance with the state implementation plan to
19 the extent that federal action is likely; and

20 (2) the commission finds that the reallocation of some
21 or all of the funding for the program established under Chapter 393
22 would resolve the noncompliance.

23 (g) Under Subsection (f), the commission may not reallocate
24 more than the minimum amount of money necessary to resolve the
25 noncompliance.

26 SECTION 3. Subtitle C, Title 5, Health and Safety Code, is
27 amended by adding Chapter 393 to read as follows:

1 CHAPTER 393. TEXAS NATURAL GAS VEHICLE GRANT PROGRAM

2 Sec. 393.001. DEFINITIONS. In this chapter:

3 (1) "Advisory board" means the Texas Emissions
4 Reduction Plan Advisory Board.

5 (2) "Commission" means the Texas Commission on
6 Environmental Quality.

7 (3) "Executive director" means the executive director
8 of the Texas Commission on Environmental Quality.

9 (4) "Heavy-duty motor vehicle" means a motor vehicle
10 with:

11 (A) a gross vehicle weight rating of more than
12 8,500 pounds; and

13 (B) an engine certified to the United States
14 Environmental Protection Agency's standards for heavy-duty
15 engines.

16 (5) "Incremental cost" means the difference between
17 the manufacturer's suggested retail price of a baseline vehicle,
18 the documented dealer price of a baseline vehicle, cost to lease or
19 otherwise commercially finance a baseline vehicle, cost to repower
20 with a baseline engine, or other appropriate baseline cost
21 established by the commission, and the actual cost of the natural
22 gas vehicle purchase, lease, or other commercial financing, or
23 repower.

24 (6) "Medium-duty motor vehicle" means a motor vehicle
25 with a gross vehicle weight rating of more than 8,500 pounds that:

26 (A) is certified to the United States
27 Environmental Protection Agency's light-duty emissions standard;

1 or

2 (B) has an engine certified to the United States
3 Environmental Protection Agency's light-duty emissions standard.

4 (7) "Motor vehicle" has the meaning assigned by
5 Section 386.151.

6 (8) "Natural gas vehicle" means a motor vehicle that
7 receives not less than 75 percent of its power from compressed or
8 liquefied natural gas.

9 (9) "Program" means the Texas natural gas vehicle
10 grant program established under this chapter.

11 Sec. 393.002. PROGRAM. The commission shall establish and
12 administer the Texas natural gas vehicle grant program to encourage
13 an entity that has a heavy-duty or medium-duty motor vehicle to
14 repower the vehicle with a natural gas engine or replace the vehicle
15 with a natural gas vehicle. Under the program, the commission shall
16 provide grants for eligible heavy-duty motor vehicles and
17 medium-duty motor vehicles to offset the incremental cost for the
18 entity of repowering or replacing the heavy-duty or medium-duty
19 motor vehicle.

20 Sec. 393.003. QUALIFYING VEHICLES. (a) A vehicle is a
21 qualifying vehicle that may be considered for a grant under the
22 program if during the calendar year the entity:

23 (1) purchased, leased, or otherwise commercially
24 financed the vehicle as a new on-road heavy-duty or medium-duty
25 motor vehicle that:

26 (A) is a natural gas vehicle;

27 (B) is certified to current federal emissions

1 standards;

2 (C) replaces an on-road heavy-duty or
3 medium-duty motor vehicle of the same weight classification and
4 use; and

5 (D) is powered by an engine certified to:

6 (i) emit not more than 0.2 grams of nitrogen
7 oxides per brake horsepower hour; or

8 (ii) meet or exceed the United States
9 Environmental Protection Agency's Bin 5 standard for light-duty
10 engines when powering the vehicle; or

11 (2) repowered the on-road motor vehicle to a natural
12 gas vehicle powered by a natural gas engine that:

13 (A) is certified to current federal emissions
14 standards; and

15 (B) is:

16 (i) a heavy-duty engine that is certified
17 to emit not more than 0.2 grams of nitrogen oxides per brake
18 horsepower hour; or

19 (ii) certified to meet or exceed the United
20 States Environmental Protection Agency's Bin 5 standard for
21 light-duty engines when powering the vehicle.

22 (b) A heavy-duty or medium-duty motor vehicle is not a
23 qualifying vehicle if the vehicle or the natural gas engine
24 powering the vehicle:

25 (1) has been awarded a grant under this chapter for a
26 previous reporting period; or

27 (2) has received a similar grant or tax credit in

1 another jurisdiction if that grant or tax credit program is relied
2 on for credit in the state implementation plan.

3 Sec. 393.004. APPLICATION FOR GRANT. (a) Only an entity
4 operating in this state that operates a heavy-duty or medium-duty
5 motor vehicle may apply for and receive a grant under this chapter.

6 (b) An application for a grant under this chapter must be
7 made on a form provided by the commission and must contain the
8 information required by the commission.

9 (c) The commission, after consulting stakeholders, shall:

10 (1) simplify the application form; and

11 (2) minimize, to the maximum extent possible,
12 documentation required for an application.

13 Sec. 393.005. ELIGIBILITY FOR GRANTS. (a) The commission
14 by rule shall establish criteria for prioritizing qualifying
15 vehicles eligible to receive grants under this chapter. The
16 commission shall review and revise the criteria as appropriate
17 after consultation with the advisory board.

18 (b) To be eligible for a grant under the program:

19 (1) the use of the qualifying vehicle must be
20 projected to result in a reduction in emissions of nitrogen oxides
21 of at least 25 percent as compared to the motor vehicle or engine
22 being replaced, based on:

23 (A) the baseline emission level set by the
24 commission under Subsection (g); and

25 (B) the certified emission rate of the new
26 vehicle; and

27 (2) the qualifying vehicle must:

1 (A) replace a heavy-duty or medium-duty motor
2 vehicle that:

3 (i) is an on-road vehicle that has been
4 owned, leased, or otherwise commercially financed and registered
5 and operated by the applicant in Texas for at least the two years
6 immediately preceding the submission of a grant application;

7 (ii) satisfies any minimum average annual
8 mileage or fuel usage requirements established by the commission;

9 (iii) satisfies any minimum percentage of
10 annual usage requirements established by the commission; and

11 (iv) is in operating condition and has at
12 least two years of remaining useful life, as determined in
13 accordance with criteria established by the commission; or

14 (B) be a heavy-duty or medium-duty motor vehicle
15 repowered with a natural gas engine that:

16 (i) is installed in an on-road vehicle that
17 has been owned, leased, or otherwise commercially financed and
18 registered and operated by the applicant in Texas for at least the two
19 years immediately preceding the submission of a grant application;

20 (ii) satisfies any minimum average annual
21 mileage or fuel usage requirements established by the commission;

22 (iii) satisfies any minimum percentage of
23 annual usage requirements established by the commission; and

24 (iv) is installed in an on-road vehicle
25 that, at the time of the vehicle's repowering, was in operating
26 condition and had at least two years of remaining useful life, as
27 determined in accordance with criteria established by the

1 commission.

2 (c) As a condition of receiving a grant, the qualifying
3 vehicle must be continuously owned, leased, or otherwise
4 commercially financed and registered and operated in the state by
5 the grant recipient until the earlier of the fourth anniversary of
6 the date of reimbursement of the grant-funded expenses or until the
7 date the vehicle has been in operation for 400,000 miles after the
8 date of reimbursement. Not less than 75 percent of the annual use
9 of the qualifying vehicle, either mileage or fuel use as determined
10 by the commission, must occur in:

11 (1) the counties any part of which are included in the
12 area described by Section 393.010(a); or

13 (2) counties designated as nonattainment areas within
14 the meaning of Section 107(d) of the federal Clean Air Act (42
15 U.S.C. Section 7407).

16 (d) The commission shall include and enforce the usage
17 provisions in the grant contracts. The commission shall monitor
18 compliance with the ownership, leasing, and usage requirements,
19 including submission of reports on at least an annual basis, or more
20 frequently as determined by the commission.

21 (e) The commission by contract may require the return of all
22 or a portion of grant funds for a grant recipient's noncompliance
23 with the usage and percentage of use requirements under this
24 section.

25 (f) A heavy-duty or medium-duty motor vehicle replaced
26 under this program must be rendered permanently inoperable by
27 crushing the vehicle, by making a hole in the engine block and

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1 permanently destroying the frame of the vehicle, or by another
2 method approved by the commission that permanently removes the
3 vehicle from operation in this state. The commission shall
4 establish criteria for ensuring the permanent destruction of the
5 engine or vehicle. The commission shall enforce the destruction
6 requirements.

7 (g) The commission shall establish baseline emission levels
8 for emissions of nitrogen oxides for on-road heavy-duty motor
9 vehicles and medium-duty motor vehicles being replaced by using the
10 emission certification for the engine or vehicle being replaced.
11 The commission may consider deterioration of the emission
12 performance of the engine of the vehicle being replaced in
13 establishing the baseline emission level. The commission may
14 consider and establish baseline emission rates for additional
15 pollutants of concern, as determined by the commission after
16 consultation with the advisory board.

17 (h) Mileage or fuel use requirements established by the
18 commission under Subsection (b)(2)(A)(ii) may differ by vehicle
19 weight categories and type of use.

20 (i) The executive director shall waive the requirements of
21 Subsection (b)(2)(A)(i) on a finding of good cause, which may
22 include short lapses in registration or operation due to economic
23 conditions, seasonal work, or other circumstances.

24 Sec. 393.006. RESTRICTION ON USE OF GRANT. A recipient of a
25 grant under this chapter shall use the grant to pay the incremental
26 costs of the replacement for which the grant is made, which may
27 include the initial cost of the natural gas vehicle or natural gas

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1 engine and the reasonable and necessary expenses incurred for the
2 labor needed to install emissions-reducing equipment. The
3 recipient may not use the grant to pay the recipient's
4 administrative expenses.

5 Sec. 393.007. AMOUNT OF GRANT. (a) The commission shall
6 develop a grant schedule that:

7 (1) assigns a standardized grant in an amount between
8 60 and 90 percent of the incremental cost of a natural gas vehicle
9 purchase, lease, other commercial finance, or repowering; and

10 (2) is based on:

11 (A) the certified emission level of nitrogen
12 oxides, or other pollutants as determined by the commission, of the
13 engine powering the natural gas vehicle; and

14 (B) the usage of the natural gas vehicle; and

15 (3) may take into account the overall emissions
16 reduction achieved by the natural gas vehicle.

17 (b) Not less than 60 percent of the total amount of grants
18 awarded under this chapter for the purchase and repowering of motor
19 vehicles must be awarded to motor vehicles with a gross vehicle
20 weight rating of at least 33,001 pounds. The minimum grant
21 requirement under this subsection does not apply if the commission
22 does not receive enough grant applications to satisfy the
23 requirement for motor vehicles described by this subsection that
24 are eligible to receive a grant under this chapter.

25 (c) A person may not receive a grant under this chapter
26 that, when combined with any other grant, tax credit, or other
27 governmental incentive, exceeds the incremental cost of the vehicle

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1 for which the grant is awarded. A person shall return to the
2 commission the amount of a grant awarded under this chapter that,
3 when combined with any other grant, tax credit, or other
4 governmental incentive, exceeds the incremental cost of the vehicle
5 for which the grant is awarded.

6 (d) The commission shall reduce the amount of a grant
7 awarded under this chapter as necessary to keep the combined
8 incentive total at or below the incremental cost of the vehicle for
9 which the grant is awarded if the grant recipient is eligible to
10 receive an automatic incentive at or before the time a grant is
11 awarded under this chapter.

12 Sec. 393.008. GRANT PROCEDURES. (a) The commission shall
13 adopt procedures for:

14 (1) awarding grants under this chapter in the form of
15 rebates; and

16 (2) streamlining the grant application, contracting,
17 reimbursement, and reporting process for qualifying natural gas
18 vehicle purchases or repowers.

19 (b) Procedures adopted under this section must:

20 (1) provide for the commission to compile and
21 regularly update a listing of preapproved natural gas vehicles:

22 (A) powered by natural gas engines certified to
23 emit not more than 0.2 grams of nitrogen oxides per brake horsepower
24 hour; or

25 (B) certified to the United States Environmental
26 Protection Agency's light-duty Bin 5 standard or better;

27 (2) if a federal standard for the calculation of

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1 emissions reductions exists, provide a method to calculate the
2 reduction in emissions of nitrogen oxides, volatile organic
3 compounds, carbon monoxide, particulate matter, and sulfur
4 compounds for each replacement or repowering;

5 (3) assign a standardized rebate amount for each
6 qualifying vehicle under Section 393.007;

7 (4) allow for processing rebates on an ongoing
8 first-come, first-served basis;

9 (5) provide for contracts between the commission and
10 participating dealers under Section 393.009;

11 (6) allow grant recipients to assign their grant funds
12 to participating dealers to offset the purchase or lease price;

13 (7) require grant applicants to identify natural gas
14 fueling stations that are available to fuel the qualifying vehicle
15 in the area of its use;

16 (8) provide for payment not later than the 30th day
17 after the date the request for reimbursement for an approved grant
18 is received;

19 (9) provide for application submission and
20 application status checks to be made over the Internet; and

21 (10) consolidate, simplify, and reduce the
22 administrative work for applicants and the commission associated
23 with grant application, contracting, reimbursement, and reporting
24 requirements.

25 (c) The commission, or its designee, shall oversee the grant
26 process and is responsible for final approval of any grant.

27 (d) Grant recipients are responsible for meeting all grant

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1 conditions, including reporting and monitoring as required by the
2 commission through the grant contract.

3 Sec. 393.009. PARTICIPATING DEALERS. (a) In this section,
4 "participating dealer" means a person who:

5 (1) sells, leases, or otherwise commercially finances
6 on-road heavy-duty or medium-duty natural gas vehicles or
7 heavy-duty or medium-duty natural gas engines; and

8 (2) has satisfied all requirements established by the
9 commission for participation in the program as a dealer.

10 (b) A participating dealer must agree to the terms and
11 conditions of a standardized contract developed by the commission.

12 (c) A participating dealer shall:

13 (1) provide information regarding natural gas vehicle
14 grants to fleet operators;

15 (2) assist an applicant who purchases, leases, or
16 otherwise commercially finances a natural gas vehicle or engine
17 from the dealer with the completion of the application; and

18 (3) submit completed applications and documentation
19 to the commission on behalf of an applicant who purchases, leases,
20 or otherwise commercially finances a natural gas vehicle or engine
21 from the dealer.

22 (d) A participating dealer may not approve a grant.

23 (e) The commission shall:

24 (1) maintain and make available to the public online a
25 list of all qualified dealers; and

26 (2) establish requirements for participation in the
27 program by sellers of on-road heavy-duty or medium-duty natural gas

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1 vehicles and heavy-duty or medium-duty natural gas engines.

2 Sec. 393.010. CLEAN TRANSPORTATION TRIANGLE. (a) To
3 ensure that natural gas vehicles purchased, leased, or otherwise
4 commercially financed or repowered under the program have access to
5 fuel, and to build the foundation for a self-sustaining market for
6 natural gas vehicles in Texas, the commission shall award grants to
7 support the development of a network of natural gas vehicle fueling
8 stations along the interstate highways connecting Houston, San
9 Antonio, Dallas, and Fort Worth. In awarding the grants, the
10 commission shall provide for:

11 (1) strategically placed natural gas vehicle fueling
12 stations in and between the Houston, San Antonio, and Dallas-Fort
13 Worth areas to enable a natural gas vehicle to travel along that
14 triangular area relying solely on natural gas fuel;

15 (2) grants to be dispersed through a competitive
16 bidding process to offset a portion of the cost of installation of
17 the natural gas dispensing equipment;

18 (3) contracts that require the recipient stations to
19 meet operational, maintenance, and reporting requirements as
20 specified by the commission; and

21 (4) a listing, to be maintained by the commission and
22 made available to the public online, of all natural gas vehicle
23 fueling stations that have received grant funding, including
24 location and hours of operation.

25 (b) The commission may not award more than:

26 (1) three station grants to any entity; or

27 (2) one grant for each station.

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1 (c) Grants awarded under this section may not exceed:
2 (1) \$100,000 for a compressed natural gas station;
3 (2) \$250,000 for a liquefied natural gas station; or
4 (3) \$400,000 for a station providing both liquefied
5 and compressed natural gas.

6 (d) Stations funded by grants under this section must be
7 publicly accessible and located not more than three miles from an
8 interstate highway system. The commission shall give preference
9 to:

10 (1) stations providing both liquefied natural gas and
11 compressed natural gas at a single location; and

12 (2) stations located not more than one mile from an
13 interstate highway system.

14 (e) To meet the goals of this section, the commission may
15 solicit grant applications under this section for a new fueling
16 station in a specific area or location.

17 (f) Grants made under this section are not subject to the
18 requirements of Sections 393.002 through 393.008. The commission
19 shall develop an application package and review applications in
20 accordance with Sections 386.110 and 386.111.

21 (g) The commission, in consultation with the natural gas
22 industry, shall determine the most efficient use of funding for the
23 station grants under this section to maximize the availability of
24 natural gas fueling stations.

25 Sec. 393.011. ADMINISTRATION OF PROGRAM. The commission
26 may contract with one or more entities for administration of the
27 program.

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1 Sec. 393.012. EXPIRATION. This chapter expires August 31,
2 2017.

3 SECTION 4. Subtitle C, Title 5, Health and Safety Code, is
4 amended by adding Chapter 394 to read as follows:

5 CHAPTER 394. ALTERNATIVE FUELING FACILITIES PROGRAM

6 Sec. 394.001. DEFINITIONS. In this chapter:

7 (1) "Alternative fuel" means a fuel other than
8 gasoline or diesel fuel, other than biodiesel fuel, including
9 electricity, compressed natural gas, liquefied natural gas,
10 hydrogen, propane, or a mixture of fuels containing at least 85
11 percent methanol by volume.

12 (2) "Commission" means the Texas Commission on
13 Environmental Quality.

14 (3) "Program" means the Texas alternative fueling
15 facilities program established under this chapter.

16 Sec. 394.002. PROGRAM. (a) The commission shall establish
17 and administer the Texas alternative fueling facilities program to
18 provide fueling facilities for alternative fuel in nonattainment
19 areas. Under the program, the commission shall provide a grant for
20 each eligible facility to offset the cost of those facilities.

21 (b) An entity that constructs, reconstructs, or acquires an
22 alternative fueling facility is eligible to participate in the
23 program.

24 Sec. 394.003. APPLICATION FOR GRANT. (a) An entity
25 operating in this state that constructs, reconstructs, or acquires
26 a facility to store, compress, or dispense alternative fuels may
27 apply for and receive a grant under the program.

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1 (b) The commission may adopt guidelines to allow a regional
2 planning commission, council of governments, or similar regional
3 planning agency created under Chapter 391, Local Government Code,
4 or a private nonprofit organization to apply for and receive a grant
5 to improve the ability of the program to achieve its goals.

6 (c) An application for a grant under this chapter must be
7 made on a form provided by the commission and must contain the
8 information required by the commission.

9 Sec. 394.004. ELIGIBILITY OF FACILITIES FOR GRANTS.

10 (a) The commission by rule shall establish criteria for
11 prioritizing facilities eligible to receive grants under this
12 chapter. The commission shall review and revise the criteria as
13 appropriate.

14 (b) To be eligible for a grant under the program, the entity
15 receiving the grant must agree to make the alternative fueling
16 facility available to persons not associated with the entity at
17 times designated by the grant agreement.

18 (c) A recipient of a grant under this chapter is not
19 eligible to receive a second grant under this chapter for the same
20 facility.

21 Sec. 394.005. RESTRICTION ON USE OF GRANT. A recipient of a
22 grant under this chapter shall use the grant only to pay the costs
23 of the facility for which the grant is made. The recipient may not
24 use the grant to pay the recipient's administrative expenses.

25 Sec. 394.006. AMOUNT OF GRANT. For each eligible facility
26 for which a recipient is awarded a grant under the program, the
27 commission shall award the grant in an amount equal to the lesser

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1 of:

2 (1) 50 percent of the sum of the actual eligible costs
3 incurred by the grant recipient within deadlines established by the
4 commission to construct, reconstruct, or acquire the facility; or

5 (2) \$500,000.

6 Sec. 394.007. EXPIRATION. This chapter expires August 31,
7 2018.

8 SECTION 5. The Texas Commission on Environmental Quality
9 shall adopt rules and establish procedures under Chapter 393,
10 Health and Safety Code, as added by this Act, as soon as practicable
11 after the effective date of this Act.

12 SECTION 6. The Texas Commission on Environmental Quality
13 shall adopt rules under Section 394.004, Health and Safety Code, as
14 added by this Act, as soon as practicable after the effective date
15 of this Act.

16 SECTION 7. To the extent of any conflict, this Act prevails
17 over another Act of the 82nd Legislature, Regular Session, 2011,
18 relating to nonsubstantive additions to and corrections in enacted
19 codes.

20 SECTION 8. This Act takes effect September 1, 2011.

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Stephen Boyd
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 20 passed the Senate on April 7, 2011, by the following vote: Yeas 29, Nays 2; and that the Senate concurred in House amendments on May 26, 2011, by the following vote: Yeas 29, Nays 2. _____

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 20 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 133, Nays 6, five present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

17 JUN '11
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:00 pm O'CLOCK

JUN 17 2011
Debra Medlock
Secretary of State